

## § 270.35d-1

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the tax equivalent yield earned or distributions made by the company) with the quotations of total return specified by paragraph (d)(4) of § 230.482 of this chapter;

(C) If the sales literature (other than sales literature for a company that is permitted under § 270.35d-1(a)(4) to use a name suggesting that the company's distributions are exempt from federal income tax or from both federal and state income tax) represents or implies that the company is managed to limit or control the effect of taxes on company performance, include the quotations of total return specified by paragraph (d)(4) of § 230.482 of this chapter;

(D) Accompany any quotation of yield or similar quotation purporting to demonstrate the income earned or distributions made by the company with a quotation of current yield specified by paragraph (d)(1) of § 230.482 of this chapter; and

(E) Accompany any quotation of tax equivalent yield or other similar quotation purporting to demonstrate the tax equivalent yield earned or distributions made by the company with a quotation of tax equivalent yield specified in paragraph (d)(2) and current yield specified by paragraph (d)(1) of § 230.482 of this chapter.

(2) Any performance data included in sales literature under paragraphs (b)(1)(ii) or (iii) of this section must meet the currentness requirements of paragraph (g) of § 230.482 of this chapter.

(3) The requirements specified in paragraph (b)(1) of this section shall not apply to any quarterly, semi-annual, or annual report to shareholders under Section 30 of the Act (15 U.S.C. 80a-29) containing performance data for a period commencing no earlier than the first day of the period covered by the report; nor shall the requirements of paragraphs (d)(3)(ii), (d)(4)(ii), and (g) of § 230.482 of this chapter apply to any such periodic report containing any other performance data.

NOTE: Sales literature (except that of a money market fund) containing a quotation of yield or tax equivalent yield must also contain the total return information. In the case of sales literature, the currentness provisions apply from the date of distribution

and not the date of submission for publication.

[58 FR 19055, Apr. 12, 1993; 58 FR 21927, Apr. 26, 1993, as amended at 62 FR 64986, Dec. 9, 1997; 63 FR 13987, Mar. 23, 1998; 66 FR 9018, Feb. 5, 2001; 68 FR 57779, Oct. 6, 2003]

### § 270.35d-1 Investment company names.

(a) For purposes of section 35(d) of the Act (15 U.S.C. 80a-34(d)), a materially deceptive and misleading name of a Fund includes:

(1) *Names suggesting guarantee or approval by the United States government.* A name suggesting that the Fund or the securities issued by it are guaranteed, sponsored, recommended, or approved by the United States government or any United States government agency or instrumentality, including any name that uses the words "guaranteed" or "insured" or similar terms in conjunction with the words "United States" or "U.S. government."

(2) *Names suggesting investment in certain investments or industries.* A name suggesting that the Fund focuses its investments in a particular type of investment or investments, or in investments in a particular industry or group of industries, unless:

(i) The Fund has adopted a policy to invest, under normal circumstances, at least 80% of the value of its Assets in the particular type of investments, or in investments in the particular industry or industries, suggested by the Fund's name; and

(ii) Either the policy described in paragraph (a)(2)(i) of this section is a fundamental policy under section 8(b)(3) of the Act (15 U.S.C. 80a-8(b)(3)), or the Fund has adopted a policy to provide the Fund's shareholders with at least 60 days prior notice of any change in the policy described in paragraph (a)(2)(i) of this section that meets the requirements of paragraph (c) of this section.

(3) *Names suggesting investment in certain countries or geographic regions.* A name suggesting that the Fund focuses its investments in a particular country or geographic region, unless:

(i) The Fund has adopted a policy to invest, under normal circumstances, at least 80% of the value of its Assets in investments that are tied economically

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to the particular country or geographic region suggested by its name;

(ii) The Fund discloses in its prospectus the specific criteria used by the Fund to select these investments; and

(iii) Either the policy described in paragraph (a)(3)(i) of this section is a fundamental policy under section 8(b)(3) of the Act (15 U.S.C. 80a-8(b)(3)), or the Fund has adopted a policy to provide the Fund's shareholders with at least 60 days prior notice of any change in the policy described in paragraph (a)(3)(i) of this section that meets the requirements of paragraph (c) of this section.

(4) *Tax-exempt Funds.* A name suggesting that the Fund's distributions are exempt from federal income tax or from both federal and state income tax, unless the Fund has adopted a fundamental policy under section 8(b)(3) of the Act (15 U.S.C. 80a-8(b)(3)):

(i) To invest, under normal circumstances, at least 80% of the value of its Assets in investments the income from which is exempt, as applicable, from federal income tax or from both federal and state income tax; or

(ii) To invest, under normal circumstances, its Assets so that at least 80% of the income that it distributes will be exempt, as applicable, from federal income tax or from both federal and state income tax.

(b) The requirements of paragraphs (a)(2) through (a)(4) of this section apply at the time a Fund invests its Assets, except that these requirements shall not apply to any unit investment trust (as defined in section 4(2) of the Act (15 U.S.C. 80a-4(2))) that has made an initial deposit of securities prior to July 31, 2002. If, subsequent to an investment, these requirements are no longer met, the Fund's future investments must be made in a manner that will bring the Fund into compliance with those paragraphs.

(c) A policy to provide a Fund's shareholders with notice of a change in a Fund's investment policy as described in paragraphs (a)(2)(ii) and (a)(3)(iii) of this section must provide that:

(1) The notice will be provided in plain English in a separate written document;

(2) The notice will contain the following prominent statement, or similar clear and understandable statement, in bold-face type: "Important Notice Regarding Change in Investment Policy"; and

(3) The statement contained in paragraph (c)(2) of this section also will appear on the envelope in which the notice is delivered or, if the notice is delivered separately from other communications to investors, that the statement will appear either on the notice or on the envelope in which the notice is delivered.

(d) For purposes of this section:

(1) *Fund* means a registered investment company and any series of the investment company.

(2) *Assets* means net assets, plus the amount of any borrowings for investment purposes.

[66 FR 8518, Feb. 1, 2001; 66 FR 14828, Mar. 14, 2001]

### § 270.38a-1 Compliance procedures and practices of certain investment companies.

(a) Each registered investment company and business development company ("fund") must:

(1) *Policies and procedures.* Adopt and implement written policies and procedures reasonably designed to prevent violation of the Federal Securities Laws by the fund, including policies and procedures that provide for the oversight of compliance by each investment adviser, principal underwriter, administrator, and transfer agent of the fund;

(2) *Board approval.* Obtain the approval of the fund's board of directors, including a majority of directors who are not interested persons of the fund, of the fund's policies and procedures and those of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, which approval must be based on a finding by the board that the policies and procedures are reasonably designed to prevent violation of the Federal Securities Laws by the fund, and by each investment adviser, principal underwriter, administrator, and transfer agent of the fund;

(3) *Annual review.* Review, no less frequently than annually, the adequacy of